

Message Text

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TO SECSTATE WASHDC 2247

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SUBJECT: LOS: SINGLE TEXT STRAITS ARTICLES

FOLLOWING IS SINGLE TEXT STRAITS ARTICLES WHICH EMERGED FROM UK-FIJI CONSULTATIONS. TEXT IS SUPPORTED BY ARGENTINA, BAHRAIN, BULGARIA, DENMARK, ETHIOPIA, ICELAND, INDIA, ITALY, FIJI, KENYA, LEBANON, NIGERIA, UNITED ARAB EMERITES, UNITED KINGDOM AND VENEZUELA.

PASSAGE OF STRAITS USED FOR INTERNATIONAL NAVIGATION

ARTICLE I

1. THIS ARTICLE APPLIES TO ANY STRAIT (WHICH TERM INCLUDES ANY NATURALLY-FORMED STRETCH OF WATER WHATEVER ITS GEOGRAPHICAL NAME) WHICH:

(A) IS USED FOR INTERNATIONAL NAVIGATION; AND

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(B) CONNECTS TWO PARTS OF THE HIGH SEAS.#

(# FOOTNOTE: IT IS THE INTENTION TO REFER HERE AND PASSIM TO ALL AREAS BEYOND THE TERRITORIAL SEA. THE PRECISE TERMINOLOGY SHOULD CONFIRM TO THAT USED IN OTHER TEXTS ELABORATED BY COMMITTEE II.)

2. IN STRAITS TO WHICH THIS ARTICLE APPLIES, ALL SHIPS AND AIRCRAFT ENJOY THE RIGHT OF TRANSIT PASSAGE, WHICH SHALL NOT BE IMPEDED.

3. TRANSIT PASSAGE IS THE EXERCISE IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER OF THE FREEDOM OF NAVIGATION AND OVERFLIGHT SOLELY FOR THE PURPOSE OF CONTINUOUS AND EXPEDITIOUS TRANSIT OF THE STRAIT BETWEEN ONE PART OF THE HIGH SEAS AND ANOTHER PART OF THE HIGH SEAS OR BETWEEN THE HIGH SEAS AND A STATE BORDERING THE STRAIT.

4. TRANSIT PASSAGE SHALL APPLY IN A STRAIT ONLY TO THE EXTENT THAT:

(A) A HIGH SEAS ROUTE OF SIMILAR CONVENIENCE DOES NOT EXIST THROUGH THE STRAIT; OR

(B) IF THE STRAIT IS FORMED BY AN ISLAND OF THE COASTAL STATE, A HIGH SEAS ROUTE OF SIMILAR CONVENIENCE DOES NOT EXIST SEAWARD OF THE ISLAND.

5. ANY ACTIVITY WHICH IS NOT AN EXERCISE OF THE RIGHT OF TRANSIT PASSAGE THROUGH A STRAIT REMAINS SUBJECT TO THE OTHER APPLICABLE PROVISIONS OF THIS CONVENTION.

ARTICLE 2

1. SHIPS AND AIRCRAFT, WHILE EXERCISING THE RIGHT OF TRANSIT PASSAGE SHALL:

(A) PROCEED WITHOUT DELAY THROUGH THE STRAIT;

(B) REFRAIN FROM ANY ACTIVITIES OTHER THAN THOSE INCIDENT TO THEIR NORMAL MODES OF CONTINUOUS

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AND EXPEDITIOUS TRANSIT UNLESS RENDERED NECESSARY BY FORCE MAJEURE OR BY DISTRESS;

(C) REFRAIN FROM ANY THREAT OR USE OF FORCE IN VIOLATION OF THE CHARTER OF THE UNITED NATIONS AGAINST THE TERRITORIAL INTEGRITY OR POLITICAL INDEPENDENCE OF AN ADJACENT STRAITS STATE;

(D) COMPLY WITH OTHER RELEVANT PROVISIONS OF THIS CHAPTER.

2. SHIPS IN TRANSIT SHALL:

(A) COMPLY WITH GENERALLY ACCEPTED INTERNATIONAL REGULATIONS, PROCEDURES AND PRACTICES FOR SAFETY AT SEA, INCLUDING THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA;

(B) COMPLY WITH GENERALLY ACCEPTED INTERNATIONAL REGULATIONS, PROCEDURES AND PRACTICES FOR THE PREVENTION AND CONTROL OF POLLUTION FROM SHIPS.

3. AIRCRAFT IN TRANSIT SHALL:

(A) OBSERVE RULES OF THE AIR ESTABLISHED BY THE INTERNATIONAL CIVIL AVIATION ORGANIZATION UNDER THE CHICAGO CONVENTION AS THEY APPLY TO CIVIL AIRCRAFT; STATE AIRCRAFT WILL NORMALLY COMPLY WITH SUCH SAFETY MEASURES AND WILL AT ALL TIMES OPERATE WITH DUE REGARD FOR THE SAFETY OF NAVIGATION;

(B) AT ALL TIMES MONITOR THE RADIO FREQUENCY ASSIGNED BY THE APPROPRIATE INTERNATIONALLY DESIGNATED AIR TRAFFIC CONTROL AUTHORITY OR THE APPROPRIATE INTERNATIONAL DISTRESS RADIO FREQUENCY.

ARTICLE 3

1. IN CONFORMITY WITH THIS CHAPTER, A STRAITS STATE MAY DESIGNATE SEALANES AND PRESCRIBE TRAFFIC SEPARATION SCHEMES FOR NAVIGATION IN THE STRAIT WHERE NECESSARY TO PROMOTE
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THE SAFE PASSAGE OF SHIPS.

2. A STRAITS STATE MAY, WHEN CIRCUMSTANCES REQUIRE AND AFTER GIVING DUE PUBLICITY TO ITS DECISION, SUBSTITUTE OTHER SEALANES OR TRAFFIC SEPARATION SCHEMES FOR ANY PREVIOUSLY DESIGNATED OR PRESCRIBED BY IT.

3. SUCH SEALANES OR TRAFFIC SEPARATION SCHEMES SHALL CONFORM WITH GENERALLY ACCEPTED INTERNATIONAL REGULATIONS REFERRED TO IN ARTICLE 2.

4. BEFORE DESIGNATING SEALANES OR PRESCRIBING TRAFFIC SEPARATION SCHEMES, A STRAITS STATE SHALL REFER PROPOSALS TO THE COMPETENT INTERNATIONAL ORGANIZATION WITH A VIEW TO THEIR ADOPTION. THE ORGANIZATION MAY ADOPT ONLY SUCH

SEALANES AND SEPARATION SCHEMES AS MAY BE AGREED WITH THE STRAITS STATE, AFTER WHICH THE STRAITS STATE MAY DESIGNATE OR PRESCRIBE THEM.

5. IN RESPECT OF A STRAIT WHERE SEALANES OR SUCH SCHEMES ARE PROPOSED THROUGH THE WATERS OF TWO OR MORE STRAITS STATES, THE STATES CONCERNED SHALL COOPERATE IN FORMULATING PROPOSALS IN CONSULTATION WITH THE ORGANIZATION.

6. THE STRAITS STATE SHALL CLEARLY INDICATE ALL SEALANES AND SEPARATION SCHEMES DESIGNATED OR PRESCRIBED BY IT ON CHARTS TO WHICH DUE PUBLICITY SHALL BE GIVEN.

7. SHIPS IN TRANSIT SHALL RESPECT APPLICABLE SEALANES AND SEPARATION SCHEMES ESTABLISHED IN ACCORDANCE WITH THIS ARTICLE.

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ARTICLE 4

1. SUBJECT TO THE PROVISIONS OF THIS CHAPTER, THE STRAITS STATE MAY MAKE LAWS AND REGULATIONS RELATING TO TRANSIT

PASSAGE THROUGH STRAITS, WHICH LAWS AND REGULATIONS MAY BE IN RESPECT OF ALL OR ANY OF THE FOLLOWING:

(A) THE SAFETY OF NAVIGATION AND THE REGULATION OF MARINE TRAFFIC AS PROVIDED FOR IN ARTICLE 3;

(B) THE PREVENTION OF POLLUTION, GIVING EFFECT TO APPLICABLE INTERNATIONAL REGULATIONS REGARDING THE DISCHARGE OF OIL, OILY WASTES AND OTHER NOXIOUS SUBSTANCES IN THE STRAIT;

(C) THE PREVENTION OF FISHING, INCLUDING THE STOWAGE OF FISHING GEAR;

(D) THE TAKING ON BOARD OR PUTTING OVERBOARD OF ANY COMMODITY, CURRENCY OR PERSON IN CONTRAVENTION OF UNCLASSIFIED

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THE CUSTOMS, FISCAL, IMMIGRATION OR SANITARY REGULATIONS OF THE STRAITS STATE.

2. SUCH LAWS AND REGULATIONS SHALL NOT DISCRIMINATE IN FORM OR FACT AMONG FOREIGN SHIPS, NOR IN THEIR APPLICATION HAVE THE PRACTICAL EFFECT OF DENYING, LIMITING OR IMPAIRING THE RIGHT OF TRANSIT PASSAGE AS DEFINED IN THIS CHAPTER.

ARTICLE 5

USER STATES AND STRAITS STATES SHOULD BY AGREEMENT COOPERATE IN THE ESTABLISHMENT AND MAINTENANCE IN A STRAIT OF NECESSARY NAVIGATION AND SAFETY AIDS OR OTHER IMPROVEMENTS IN AID OF INTERNATIONAL NAVIGATION OR FOR THE PREVENTION AND CONTROL OF POLLUTION FROM SHIPS.

ARTICLE 6

A STRAITS STATE SHALL NOT HAMPER TRANSIT PASSAGE AND SHALL GIVE APPROPRIATE PUBLICITY TO ANY DANGER TO NAVIGATION OR OVERFLIGHT WITHIN OR OVER THE STRAIT OF WHICH IT HAS KNOWLEDGE. THERE SHALL BE NO SUSPENSION OF TRANSIT PASSAGE.

ARTICLE 7

1. IN STRAITS USED FOR INTERNATIONAL NAVIGATION BETWEEN ONE PART OF THE HIGH SEAS AND ANOTHER PART OF THE HIGH SEAS, OTHER THAN THOSE STRAITS IN WHICH THE REGIME OF TRANSIT PASSAGE APPLIES IN ACCORDANCE WITH ARTICLE 1, OR BETWEEN ONE PART OF THE HIGH SEAS AND THE TERRITORIAL SEA OF A FOREIGN STATE, THE REGIME OF INNOCENT PASSAGE IN ACCORDANCE WITH THE PROVISIONS OF PART III OF CHAPTER TWO SHALL

APPLY, SUBJECT TO THE PROVISIONS OF THIS ARTICLE.

2. THERE SHALL BE NO SUSPENSION OF THE INNOCENT PASSAGE OF FOREIGN SHIPS THROUGH SUCH STRAITS.

3. THE PROVISIONS OF ARTICLE 3 OF THIS CHAPTER SHALL APPLY IN SUCH STRAITS.

ARTICLE 8

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NOTHING IN THIS CHAPTER SHALL AFFECT ANY AREAS OF HIGH SEAS WITHIN A STRAIT.

ARTICLE 9

1. THE REGIMES OF PASSAGE THROUGH STRAITS USED FOR INTERNATIONAL NAVIGATION SET OUT IN THIS CHAPTER SHALL NOT IN OTHER RESPECTS AFFECT THE STATUS OF WATERS FORMING SUCH STRAITS (NOR OF THE SEABED, SUBSOIL AND SUPERJACENT AIRSPACE THEREOF) AS PROVIDED FOR ELSEWHERE IN THIS CONVENTION.

2. THE SOVEREIGNTY OR JURISDICTION OF THE STRAITS STATE SHALL BE EXERCISED SUBJECT TO THE PROVISIONS OF THIS CHAPTER AND OTHER RULES OF INTERNATIONAL LAW.

ARTICLE 10

THE PROVISIONS OF THIS CHAPTER SHALL NOT AFFECT THE LEGAL REGIME IN STRAITS IN WHICH PASSAGE IS REGULATED IN WHOLE OR IN PART BY LONG-STANDING INTERNATIONAL CONVENTIONS IN FORCE SPECIFICALLY RELATING TO SUCH STRAITS.

ARTICLE 11

IN THIS CHAPTER, "STRAITS STATE" MEANS ANY STATE BORDERING A STRAIT TO WHICH THE CHARTER APPLIES.

ARTICLE 12

ANY DISPUTE CONCERNING THE INTERPRETATION OR APPLICATION OF THIS CHAPTER SHALL BE SETTLED IN ACCORDANCE WITH CHAPTER () OF THIS CONVENTION. DALE

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